UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,995	09/22/2003	Joseph Birli	AUDI 2 00025	9320

27885 7590 03/21/2008

FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER	
DABNEY, PHYLESHA LARVINIA	
ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
03/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/667,995	BIRLI ET AL.	
	Examiner	Art Unit	
	PHYLESHA L. DABNEY	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-8,23-69 and 71* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *6-8* is/are allowed.

6)☒ Claim(s) *42-45,48,50,52,53,59,62 and 68* is/are rejected.

7)☒ Claim(s) *55-57,* is/are objected to.

8)☒ Claim(s) *23-41, 46, 47, 49, 51, 54, 58, 60-61, 63-67, 69, 71* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the Amendment received on 22 January 2008 in which claims **6-8, 42-69, and 71** are pending. Claims **1-5, 9-41, and 70** were cancelled.

Election/Restrictions

1. Applicant's election without traverse of claims **6-8** on 30 May 2006, and claims **42-45, 48, 50, 52-53, 55-57, 59, 62, 68, 70** on 25 July 2007 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **42-45, 59, and 68** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed (U.S. Patent No. 5,142,700), in view of MacLeod (U.S. Patent No. 4,123,622).

Regarding claims 42-45, Reed teaches a mask (10, 30) comprising a pass-through (44) and a microphone assembly (58), the pass through designed to pass a signal from an interior to an exterior of the mask through a plurality of electrical connections, the microphone assembly at least partially mounted on an interior of the mask, the microphone assembly including a first microphone arrangement (58) and a second microphone arrangement (58), each of the microphone arrangements including first and second electrical connectors designed to be electrically connected to at least one electrical connection of the pass-through such that at least

one signal passes from an exterior of said mask to an interior of said mask, from an interior of said mask to an exterior of a combination thereof, each of said microphone arrangements including at least one microphone as shown in fig. 3.

Although Reed teaches that the microphone is contained within face guard, Reed fails to teach at least one of said first microphone arrangement and said second microphone arrangement are detachably connected to said pass-through.

In a similar field of endeavor, MacLeod teaches a means (12) for connecting a microphone to the pass-through (fig. 2, col. 2 lines 48 through col. 3 line 2) of a face mask utilizing a detachable threaded coupling, which would allow for removal and replacement of a damaged microphone, for instance. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was to couple the microphone of Reed in the manner as taught by MacLeod for beneficially allowing removal and replacement of a damaged microphone.

Regarding claim 59, the combination of Reed and MacLeod teaches the mask as defined in claim 42, wherein the first microphone arrangement (58) is electrically connected to a device selected from the group consisting of an intercom, a telephone, a radio unit, or a voice projection unit; the second microphone arrangement (58) electrically connected to a device different from the device connected to the first microphone arrangement (col. 1 line 59 through col. 2 line 10).

Regarding claim 68, the combination of Reed and MacLeod teaches the mask as defined in claim 42, wherein the pass-through (44) is located adjacent an air supply portal (28) in the mask.

3. Claims **42-45, 48, 50, and 59** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed (U.S. Patent No. 5,142,700), in view of MacLeod (U.S. Patent No. 4,123,622).

Regarding claims 42-45, interpreted in an alternate manner, Reed teaches a mask (30) comprising a pass-through (10, 44) and a microphone assembly (58), the pass through designed to pass a signal from an interior to an exterior of the mask through a plurality of electrical connections, the microphone assembly at least partially mounted on an interior of the mask, the microphone assembly including a first microphone arrangement (58) and a second microphone arrangement (58), each of the microphone arrangements including first and second electrical connectors designed to be electrically connected to at least one electrical connection of the pass-through such that at least one signal passes from an exterior of said mask to an interior of said mask, from an interior of said mask to an exterior of a combination thereof, each of said microphone arrangements including at least one microphone as shown in fig. 3.

Although Reed teaches that the microphone is contained within face guard, Reed fails to teach at least one of said first microphone arrangement and said second microphone arrangement are detachably connected to said pass-through.

In a similar field of endeavor, MacLeod teaches a means (12) for connecting a microphone to the pass-through (fig. 2, col. 2 lines 48 through col. 3 line 2) of a face mask utilizing a detachable threaded coupling, which would allow for removal and replacement of a

damaged microphone, for instance. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was to couple the microphone of Reed in the manner as taught by MacLeod for beneficially allowing removal and replacement of a damaged microphone.

Regarding claim 48, the combination of Reed and MacLeod teaches the mask as defined in claims 42, wherein at least one of the first and second microphone assemblies (58) are designed to be at least partially supported on the pass-through (10, 44).

Regarding claim 50, the combination of Reed and MacLeod teaches the mask as defined in claim 48, wherein both of the first and second microphone assemblies (58) are at least partially supported on the pass-through (10, 44).

Regarding claim 59, the combination of Reed and MacLeod teaches the mask as defined in claim 42, wherein the first microphone arrangement (58) is electrically connected to a device selected from the group consisting of an intercom, a telephone, a radio unit, or a voice projection unit; the second microphone arrangement (58) electrically connected to a device different from the device connected to the first microphone arrangement (col. 1 line 59 through col. 2 line 10).

4. Claims **52-53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of MacLeod.

Regarding claims 52-53, it is implied by the reference that the microphones have connectors for providing electrical connection. In addition, the combination of Reed and MacLeod teaches a wiring connector structure (col. 3 lines 40-46) for connecting components to the face mask, having a second component supported on a main (first) component (fig. 2, relative to an example speaker configuration).

Since the combination of Reed and MacLeod does not specifically teach or restrict any connecting structure for the microphone components, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the example wiring connector structure (fig 2) disclosed by the reference for use by any other components could be used for attaching the microphone components in the invention of Reed and MacLeod as a means of providing electrical connection between components and the pass-through.

5. Claim **62** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Reed and MacLeod in view of Steelman (U.S. Patent No. 6,101,256).

Regarding claim 62, the combination of Reed and MacLeod does not teach or restrict the microphone arrangements to the type of microphone used.

In a similar field of endeavor (sports communication), Steelman teaches that any suitable type of well-known transducer, which would include electret, dynamic, etc., can be used to convert sound waves and improving operating characteristics (col. 3 lines 16-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that any type of transducer including electret, etc., can be used in the invention of Reed and

MacLeod as taught by Steelman for improving basic characteristics and achieving the desired output and design.

Allowable Subject Matter

6. Claims **6-8** are allowed.

7. Claims **55-57** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. With respect to the Applicant's argument that Reed does not disclose, teach or suggest *multiple microphones connected to the transceiver or super conductor unit 44,* the Examiner disagrees. As clearly shown in fig.3, the element (58) corresponds to more than one microphone in a complete electrical circuit attached to unit (44).

9. With respect to the Applicant's argument that Reed also does not disclose, teach or suggest *the transceiver or super conductor unit 44 being used to pass one or more signals between at least two microphones and between the interior and exterior of the mask via the at least two microphones,* the Examiner disagrees. As stated above, the microphones (58) are part of a complete electrical circuit. In addition, the unit (44) is a transceiver, thus providing reception and transmission of signals to and from the mask. Therefore, the Examiner contends that the Reed references satisfies the claimed limitations of passing signals from the microphones and between the interior and exterior of the mask.

10. (copied from previous action) In the event that the Applicant does not traverse the Examiner's assertion of official notice or Applicant's traverse is not adequate; the Examiner must clearly indicate in the next office action that the common knowledge or well-known in the art statement is taken to be admitted prior art.

In this instance, the Applicant did not traverse the Examiner's assertion of official notice. Because the Applicant did not specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art [See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241], the official notice statements are maintained from the action dated 3 May 2007 as restated above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHYLESHA L. DABNEY whose telephone number is (571)272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450

Or faxed to:
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

Hand-delivered responses should be brought to:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 15, 2008
/Phylesha L Dabney/
Examiner, Art Unit 2614

/Sinh N Tran/
Supervisory Patent Examiner, Art Unit 2615